

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**SAMUEL HOFFMEYER,**

:  
: Case No. 2:21-cv-1942

**Plaintiff,**

:  
: Chief Judge Algenon L. Marbley

**v.**

:  
: Magistrate Judge Elizabeth P. Deavers

**MS. PERRY, et al.,**

:  
:

**Defendants.**

**ORDER ON REPORT AND RECOMMENDATION**

On August 25, 2021, the United States Magistrate Judge issued a Report and Recommendation (ECF No. 12) that the Court dismiss Plaintiff's Complaint for failure to prosecute. The Report and Recommendation specifically advised the parties on their right to object within fourteen days and on the rights they would waive by failing to do so. (*Id.* at 4–5). No objection has been filed, and the deadline lapsed on September 8, 2021.

This is hardly surprising; the basis of the Report and Recommendation is Plaintiff's failure to apprise the Court of his changed address, as is his duty as a *pro se* litigant. *See Barber v. Runyon*, 1994 WL 163765, at \*1 (6th Cir. 1994). The Court's three most recent mailings to Plaintiff's last known address at the Ross Correctional Institute all have been returned as undeliverable, on account of Plaintiff's recent parole. (ECF Nos. 8, 11, 13). The Court's staff also have attempted to locate Plaintiff through the parole system, without success.

Given that Plaintiff has not apprised the Court of his current address, the Magistrate Judge correctly concluded that Plaintiff has failed to prosecute his case. Dismissal, therefore, is appropriate. *See Walker v. Cognis Oleo Chem., LLC*, 2010 WL 717275, at \*1 (S.D. Ohio Feb. 26,

2010). Because this Order is also likely to be returned as undeliverable, the dismissal will be without prejudice to a later refiling of the Complaint.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation and **DISMISSES** this case without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk is instructed to serve this Order on Plaintiff's last known address.

**IT IS SO ORDERED.**



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ALGENON L. MARBLEY  
UNITED STATES DISTRICT JUDGE

**DATED:** November 15, 2021